

1 STATEMENT BY DAVID EARL HONIG, Special Counsel,
2 RAINBOW/PUSH Coalition

3 MR. HONIG: I am David Honig, Special Counsel
4 for the RAINBOW/PUSH Coalition; and is that going to be
5 hard to follow.

6 Very briefly: This takes work, lots of hard
7 work, and we need your help.

8 There are three things that we are going to
9 need:

10 First, if you have specific instances of
11 unfair monopoly statistics, anticompetitive,
12 discriminatory activity or treatment by any company that
13 we need to know about, please let us know about it. That
14 is what we are here for.

15 Secondly, if there is something we can do to
16 help your business to prosper, that is what we are here
17 for, to intervene for you. Let us know.

18 Thirdly, if you want to help with any of the
19 legal research support work that we do, we do need
20 volunteers. If you are interested in being a communica-
21 tions lawyer, or if you are a paralegal, student,

1 researcher, if you are a scholar, we need you. Please
2 see me afterwards.

3 If you can contribute some work effort and
4 give some help in the course of this work, we would
5 appreciate it.

6 Thank you.

7 (Loud applause.)

8 STATEMENT BY RUBEN ESTRADA,
9 Special Assistant to the President, Vice President,
10 Governmental Relations; Spanish Broadcasting System

11 MR. ESTRADA: I am Ruben Estrada, Vice
12 President of the Spanish Broadcasting System.

13 I don't know if I can add to what we have said
14 here today.

15 Spanish Broadcasting System is the largest
16 Hispanic owned and operated broadcasting network in the
17 country. We have facilities and properties, five markets
18 presently in the United States, around the country, and
19 also out in the major markets: New York, Chicago, and
20 others -- Miami, Los Angeles.

1 I want to talk a little bit about what Jesse
2 talked about. He brought up some interesting facts.
3 When we deal with the tax certificate, the 1071 tax
4 certificate, they kept saying it was a set aside,
5 subsidy. It never was a subsidy or a set aside. As a
6 matter of fact, it was a deferment.

7 Interestingly enough, the Reverend mentioned
8 that African-Americans have been subsidizing this country
9 for a lot of years through slavery.

10 I have got to mention also the fact that
11 Latinos also did some subsidizing in this country at that
12 time through, if you remember, Galdez [phon.] who was the
13 Governor of Louisiana.

14 We also subsidized part of other countries.

15 So, let's begin in terms of talking about how
16 to better what we have now and make sure we keep it.

17 We at Spanish Broadcasting looked at the 1071
18 tax certificate as one of the objectives of bringing it
19 back. Whatever we do, it should come back. It was
20 represented, repealed on misrepresentation.

1 I look at the FCC as an ally. I look at the
2 FCC as wanting to do the right thing, Chairman Kennard.
3 But I think we as individuals have to attack it on a
4 higher level, be able to get in there and do whatever we
5 have to do. We do have a case. There is a case.

6 Now, we go in there and present our case and
7 say we want it back. Right now the minority ownership is
8 so dire we need to get things moving. It is going to
9 take a lot of convincing. Let's hope that we continue
10 this, take it to New York, take it through other cities
11 where people have to hear our cry and also be part of our
12 solution.

13 MR. FERGUSON: I should mention that I am in
14 the process of selling my station, selling it to Don
15 Cornwell, who is an African-American also, but he has the
16 buying power since he has about twelve stations. I
17 wasn't taking a step backward. I was trying to make a
18 point that we do have real problems.

19 CONGRESSMAN RUSH: Point well taken.

20 STATEMENT BY CHARLES SHERRELL, President,
21 WBEE Radio, Chicago, Illinois

1 MR. SHERRELL: My name is Charles Sherrell,
2 and I own a radio station here in the Chicago market,
3 WBEE.

4 I have been in the business now for about 32
5 years, and I remember over 30 years ago calling on an
6 advertising agency and trying to convince them to buy
7 time on a radio station which was black oriented, a
8 black-oriented station, and a young white buyer told me
9 that -- Oh, by the way, their advertising agency handled
10 General Motors, and we were trying to get a Cadillac
11 buyer. And the young gentleman told me, "Well, you are
12 going to have to convince me that your people will buy
13 these cars because we look upon the black market as
14 buying used cars and half pints of liquor."

15 That was in 1966.

16 Well, last year, Earl Graves, the owner of
17 Black Enterprise magazine, wrote a book called: How to
18 be Successful Without Being White.

19 Lo and behold! He wrote about an incident
20 when he called on an agency that handled Mercedes-Benzes
21 in 1995, and believe it or not, another white buyer told

1 him, "We look upon your people as buying used cars and
2 half pints of liquor."

3 So, it hasn't changed too much. It seems that
4 corporate America still does not know about the buying
5 power of the African-American community. But I think
6 worse than that we, as African-Americans, have not made
7 it known about the buying power of the African-American
8 community. So I think that everything that we are
9 talking about today has been rehashed over the years.

10 I did two years as Chairman of the National
11 Association of Black Owned Broadcasters, and two years as
12 President of that organization. We represented all the
13 black stations in this country, all the black-owned
14 stations, radio and TV in this country, and we have been
15 complaining about this problem all along. Unfortunately
16 we have not harnessed our potential power to pay damage
17 to those who refused to respect us.

18 So, I think once again that the only way it is
19 going to change is for us to act when we make money.

20 Now, there was the day when radio stations
21 were making big money, talking about black-owned, black

1 oriented stations; the smaller radio stations were making
2 big money. That was the time we should have harnessed
3 the power. Now, it is a little bit harder, but we are
4 still going to have to come together to make our own
5 changes.

6 (Loud applause.)

7 STATEMENT OF ANDREW JAY SCHWARTZMAN, President and CEO,
8 Media Access Project

9 MR. SCHWARTZMAN: I am Andy Schwartzman. I am
10 President of the Media Access Project in Washington,
11 which is a public interest law firm which represents the
12 rights of civil rights groups before the FCC.

13 I am happy to be here today, first because my
14 mother grew up in this neighborhood, and I have family
15 ties with people who still live in this neighborhood, so
16 it is especially nice for me to be here, and I want to
17 thank you for your rousing defense of Chairman Kennard
18 this morning, and that is part of what I would like to
19 speak about briefly today, which is the Washington side
20 of this.

1 Chairman Kennard is under attack from members
2 of Congress of both parties for trying to do the right
3 thing. He needs support. He needs encouragement for him
4 to proceed on this agenda which is so important;
5 otherwise, he won't succeed.

6 In that connection I would also add that the
7 newest Commissioner, Michael Powell, is going to be here
8 very shortly. Commissioner Powell in many ways is more
9 important than Bill Kennard to the people here because
10 you know where Bill Kennard is, and you know where he
11 wants to go.

12 Commissioner Powell at this point is
13 uncommitted. He speaks about principles, but he has yet
14 to take any position on the kind of policies and
15 practices that we talked about here. So, he needs to
16 hear from the people here, that he actually take a stand.

17 In a few moments, rather than try to top the
18 presentations made here, I would just like to say that
19 the FCC and mass media policies are not just limited to
20 broadcasting. It is right to focus on broadcasting
21 because it is the most powerful medium to shape public

1 opinion. They are trying to shut down Bill Kennard in
2 Congress.

3 I would like to point out that there are other
4 issues.

5 For example, the Federal Communications
6 Commission is about to consider whether broadcasters
7 should have additional responsibility in connection with
8 the new digital television licenses, \$70 billion, to
9 existing broadcasters last year. The technology, multi-
10 channel capacity, this offers opportunities which the
11 President's Advisory Committee is looking at and will
12 report to the FCC on, to turn off entire programs or
13 portions of the unaffiliated programmers, minority
14 programmers who could use that opportunity to speak
15 directly, and opening their own programming. Recommenda-
16 tions along those lines are very important.

17 Similarly, the FCC has the power to reduce the
18 rates that are being charged for leased access time so
19 that people can buy time on local cable systems or
20 programming which again they can own and operate, rather

1 than just have it be in the -- at the behest of the local
2 cable operator.

3 Bill Kennard has been a leader on this and
4 needs support, and is also looking to see whether the
5 direct broadcast satellite technology can be used for
6 underserved communities in the country, rural
7 communities, communities that are located in distant
8 places around the country, foreign language programming.

9 There are other non-broadcast opportunities in
10 the mass media, and tremendous opportunities to try to
11 reach out.

12 Beyond that, even my background in the early
13 seventies in helping write the EEO rules and ownership
14 rules, watching Congress take away the tax certificate
15 policy -- Mr. Ferguson knows a great deal about this in
16 Lansing. So the Commission needs this kind of public
17 support, something that hasn't been heard for a very long
18 time, and I want to thank you for this forum.

19 (Loud applause.)

20 STATEMENT OF THOMAS H. CASTRO, President,
21 El Dorado Communications, Inc.

1 MR. CASTRO: Mr. Chairman, my name is Thomas
2 H. Castro. I am the President of El Dorado
3 Communications.

4 We are a Spanish-owned company that serves the
5 Spanish population in Houston and Los Angeles and Dallas.

6 I would like to comment on a few things.

7 First of all, I would like to thank
8 RAINBOW/PUSH and the Congressional members that are here
9 today. This is a very important initiative. I think we
10 are going to look back in the future and realize today
11 was the beginning of a very important change in our
12 society. It is not going to be easy. It is not going to
13 happen quickly. But good things never happen quickly.

14 And so today will be the first step of what
15 will be a fundamental change, in that people in the grass
16 roots will begin to reassert our control of the airwaves
17 because we should not fail to note the obvious.

18 These airwaves belong to all the people of
19 this country. They are not the private property of
20 anyone. They are public property.

1 The comments that I would like to make are in
2 a few different areas.

3 First of all, Reverend Jackson noted that
4 public pension funds provide the capital resources needed
5 to do many of the things we would like to see happen, and
6 someone asked Bill Kennard if it was possible for the
7 government to provide financing of a certain type, and he
8 noted that the government, that is not their role. And
9 also perhaps the government does not have the resources.
10 That is a very important thing for all of us to
11 understand.

12 I would like to appeal to the congressional
13 people that are here to do whatever you could to look at
14 how the federal government could prod states and local
15 government, and corporate pension funds into providing
16 access to that capital, to minority-owned businesses. It
17 is the greatest source of wealth that exists in our
18 society.

19 And in fact, it is the money that is following
20 all these takeovers. It is not the money of the people
21 that you read about. They are not putting up their own

1 money when they buy these companies, they are leveraging
2 the money of pension funds of workers, many of whom are
3 minority workers, and those pension funds are fueling
4 their takeovers.

5 The difference is the people who control that
6 pension fund money, to whom it has been given to invest,
7 have no obligations and no interest in promoting public
8 interest, and we need to put the public interest on the
9 agenda for the way that those pension funds make their
10 investments.

11 So, whether we invest it directly in a
12 minority company or when they make commitments of capital
13 for these large acquisitions, hopefully the pension funds
14 can be educated so that they will start to talk to their
15 representatives, their intermediaries, to make these
16 deals so that we don't have to come in at the tail end
17 and try to promote the public interest. Hopefully the
18 people who control the capital put the public interest
19 alongside getting a good return for their money at the
20 very outset.

1 Secondly, what we need to do is desegregate
2 Wall Street. We have some good Congressional people
3 here. We have Bill Kennard. We have others in the
4 federal government. But as long as Wall Street is
5 segregated, it doesn't matter what any of us who are
6 entrepreneurs do. Unless you have access to Wall Street,
7 there is not much we can do, you will never be
8 successful. You may own one station, you may have a
9 license to build a telecom system, but as Mr. Sloan
10 noted, sooner or later you are going to have to give it
11 up. Sooner or later big shot firms with the money will
12 come. Unless we have access to the same source of
13 capital that these large companies that we are talking
14 about here today have, we will never be successful.

15 Desegregating Wall Street is an objective.
16 Once that happens, we have the talent and the ability to
17 compete.

18 You have many, many cases where minority-owned
19 companies are competing head to head, and when given an
20 opportunity to compete, like here in Chicago with the
21 Spanish Broadcasting System, being a large publicly-owned

1 company, they are a small Hispanic private company, or
2 the giant in Washington, D.C., they met CBS head on: A
3 mother and son team meeting CBS head to head.

4 When given a fair opportunity and fair fight,
5 we can hold our own. Our people have survived a lot of
6 years, a lot of problems. Give us the opportunity to
7 compete, that is all that we ask.

8 And for those of you in Congress, we seek
9 nothing more than a level field. Right now, that playing
10 field is anything but level.

11 Mr. Schwartzman mentioned HDTV. That is a
12 fancy name. But what it means is that everybody who
13 owned a TV license was given the ability by the govern-
14 ment for free. They gave it to them. Somebody gave away
15 \$70 billion in TV licenses. We are talking about ABC,
16 CBS, NBC, and the names behind those companies are
17 General Electric, Disney, those companies were given five
18 new channels, that they can essentially, with their
19 existing channels, all of a sudden send five new feeds
20 into everyone's home at no cost to them.

1 Okay. If those had been auctioned off, that
2 would have brought billions of dollars to the coffers of
3 this country. Instead, they were given to them.

4 So, the monopoly was strengthened. Anything
5 that you can do in Congress and that we can do in the
6 community that we create the opportunity for new voices
7 to be heard over the air, would change the dynamics of
8 television.

9 We will never own CBS or ABC, those monopolies
10 were given away 30, 40, or 50 years ago. We didn't have
11 the political muscle to get in on that game. These are
12 brand-new channel distributions, five of them in every
13 city. The fact is that there isn't enough new
14 programming to go around. They just recycle the same
15 junk over and over again.

16 So, if you can help us gain access to those
17 channels, there are hundreds and thousands of dynamic,
18 talented people who can provide education, not just to
19 their own community, but to all communities.

20 Finally, in spite of the fact that we are here
21 talking about monopolies, and obviously there are a lot

1 of problems in the business world where the biggies are
2 eating up little guys, I don't think we should lose sight
3 of the fact that we probably are living in the best
4 economic times in the history of the world. We are very
5 fortunate to live in a country that has more wealth and
6 is creating more wealth every day than has ever happened
7 in the history of the world.

8 So, there is plenty to go around as long as
9 the federal government helps level the playing field and
10 give those of us who are willing and able to compete the
11 opportunity to do so.

12 If we were in bad economic times, it would be
13 very difficult to make a change, very difficult. We live
14 in times of riches, and now is the time to create the
15 political will to create a society which is fair and
16 democratic. But we do not have that political will.
17 Hopefully this meeting and others like it will lead to
18 the creation of the political will that will give those
19 of us in Congress the opportunity to do the right thing.

20 Thank you.

21 (Loud applause.)

1 CONGRESSMAN RUSH: Thank you. We are going to
2 have some remarks from Congressman Conyers, and then we
3 are going to conclude this portion of the hearing. We
4 are pressed up against the wall. We have lunch, and the
5 Reverend has scheduled a two p.m. press conference that
6 we are going to have right here in the room, and we want
7 to have everybody here, all of you here. We are going to
8 have lunch, and then we are going to reconvene for the
9 press conference, and after that point in time we will
10 discuss, after the press conference, we will discuss the
11 twelve points, so we can have some discussion and
12 conclusion about the twelve points.

13 I present Congressman John Conyers.

14 STATEMENT BY CONGRESSMAN JOHN CONYERS

15 CONGRESSMAN CONYERS: Thank you.

16 Number one: This audio of Chairman Kennard's
17 keynote address and what we did here should be shown on
18 public cable throughout the United States of America.
19 That is the first learning experience that millions of
20 Americans will have about this subject.

1 Number two: We need to hold our hearings in
2 Washington, D.C. as soon as possible with the
3 Congressional Black Caucus, with the Hispanic Caucus, and
4 we should go before the House Judiciary and the House
5 Commerce Committee so that this gets into the American
6 legislative process.

7 This is not a rump group meeting to exchange
8 gripes. This is the serious business of what all of the
9 other members of the legislature have to know about.

10 Number three: We need to send out a
11 questionnaire to everybody in public office determining
12 what their intelligence quotient is on this subject so
13 that we know who we are dealing with, not just in
14 Congress, not just presidential candidates, I am talking
15 about local elected officials who need to be brought into
16 this process as well.

17 And then, we create, as has been created by
18 the Congressional Quarterly, we won't need this much
19 space, but we will have in our computers a record of
20 where everybody stood in 1998 on all of these subjects so
21 that we are not just pioneers out in the wilderness doing

1 wonderful modern-type work; but that everybody will be
2 shown that they know, they support, or they don't know,
3 or that they are on the other side. That includes
4 meetings with Chairman Henry Hyde, the Chairman of the
5 Judiciary Committee; the Chairman of the Commerce
6 Committee, and the ranking members which are me and John
7 Dingell, and I emphasize John Dingell.

8 And then Mr. Castro made excellent points. We
9 have got to desegregate Wall Street because this is one
10 industry in the whole scheme of things.

11 Now, two months ago we were on Wall Street, in
12 Wall Street. We brought in not only the key Wall Street
13 players, but the President of the United States. So they
14 have already got the initial understanding of what they
15 have to do, and these hearings here and what we did in
16 Wall Street are really moving in the same direction.

17 Finally, we have to, in the next nine months,
18 take back the House of Representatives so that John
19 Conyers is the Chairman and not the ranking member.

20 This takes political will, but guess what?
21 The decisions that we make here are what governing is all

1 about. The decisions that we effect on those who are
2 elected to represent us become the law of the land. This
3 is not complex. This is not science. This is exactly
4 what we are supposed to be doing so that we know who is
5 representing us and who isn't.

6 And so I am proud to be here at this historic
7 conference, to join all of you broadcasters, experts,
8 researchers, university people, members of Congress,
9 because this is the beginning. Reverend Jackson has been
10 talking about this for 25 years.

11 The first time I met him he handed me hand-
12 written papers, I will never forget it, of an economic
13 treatise of how we were going to create full employment
14 in America.

15 And this is the logical extension and imple-
16 mentation of a full employment policy and a fair economic
17 policy for the greatest economic and political machinery
18 I know in the world, the United States of America.

19 Thanks for inviting me.

20 (Loud applause.)

1 REVEREND JACKSON: Let's have a big hand for
2 Congressman Rush, Congressman Conyers, give it up, and
3 for our panel members, Congressman Engel, give him a big
4 hand.

5 (Loud and thunderous applause.)

6 (Here came miscellaneous discussions and
7 announcements.)

8 (Whereupon, a recess was taken, to be
9 reconvened at one o'clock p.m.)

10 Monday, March 16, 1998, Afternoon

11 P R O C E E D I N G S

12 REVEREND JACKSON: May I have your attention,
13 please? Brothers and Sisters, may I have your attention,
14 please? Let's prepare to get started. Each of you
15 sitting down knowing the awesome power of chicken, having
16 had experience with this throughout the years. Let us
17 have a chicken stretch, a ten second chicken stretch,
18 because if we don't, we'll be talking and you'll be
19 sitting there sleep.

20 While we're waiting for others to come back,
21 we're building a communication center here. We're going

1 to build a new studio downstairs, because we have
2 meetings like this, we must be able to record and
3 distribute our own story. We're not just talking. We're
4 going to build a media center here. We will not depend
5 upon the people that we're challenging to cover us to
6 challenge them. Can I get a witness here?

7 (A chorus of Amens)

8 REVEREND JACKSON: So unless we tell our own
9 story, it kind of won't get told.

10 Congressman Rush, our host Congressman,
11 Congressman Conyers, our Senior Congressman, Dr. King
12 introduced me to Dr. Conyers really in 1966, Bobby and
13 Reverend Jackson's office in Liberty Baptist Church for
14 32nd. Congressman Engel.

15 We've won every battle. We've fought and we
16 still don't have what we need. We've won every battle.
17 We've fought and we still don't have what we need. That
18 is not a put down on the previous backers and previous
19 fighters. Each battle shows you yet another hill to
20 climb. We need not act as if those that fought
21 yesterday's battle were irrelevant and what we see is

1 relevant. We can see what we see because they did what
2 they did. So it is not a trade off.

3 I submit to you that we fought to end slavery.
4 We won that battle. One should not assume that slavery
5 left, automatically left because we're -- we fought for
6 the right of collective bargaining. We fought for that
7 right. We won it. We fought for desegregation in the
8 military. And unless you're trapped in a unit -- we won
9 that battle. We fought to make Jim Crow illegal.

10 The Supreme Court decision was huge. We
11 fought for the Public Accommodations Bill. From Rosa
12 Parks '64 -- to we won the right to vote. The march on
13 housing, we won that.

14 We fought to free Mandela and we did that,
15 too. We did that, too. But we have not fought for our
16 share of capital. We have not fought this fight. We
17 describe the results of not fighting it, how limited is
18 the access we have. We described what it means not to
19 fight it. We described how other people's money is green
20 and our is not. We described the impact of redlining and
21 the we ascribe the impact of the not fighting that fight,

1 but we cannot expect to live in capitalism without
2 capital unless we expect to swim without water. You're
3 headed for a crash. Can't make it. But this battle too
4 can be fought if we learn the rules. Even when we put
5 people in key places who are there, unless, we support
6 them in some correlated effort, even their opinion would
7 not be effective for us.

8 Today we thank Chairman Kennard for his
9 outstanding commitment. In that same generation is a man
10 of the same integrity and commitment, Commissioner
11 Michael Powell. We met him and laid out our case. He is
12 a student of the law and of hard work. He is in the
13 great lineage of his parents, of course the esteemed
14 Colin Powell. One of those youths who got the heat and
15 the energy from his parents and now we can feel a degree
16 of security, the leadership of this caliber and vintage
17 to take us into the next century prepared to compete and
18 bring to this job integrity and credibility.

19 Commissioner Powell, we appreciate your
20 presence today. And thank you for your market ties and
21 access to the media. We thank you for your presence.

1 Brothers and Sisters, Commissioner Powell.

2 HON. MICHAEL K. POWELL

3 MR. POWELL: You all have not heard what I
4 said first and I'm getting a standing ovation.

5 It is my great pleasure to be here. I have
6 never had the opportunity to come to Chicago, and I can't
7 think of a better reason for making a trip and the
8 efforts that are underway at this conference, because
9 this is one of the few, the few in the world in this
10 country that is engaged in the effort of finding a
11 constructive way to engage in one of the most difficult
12 issues affecting our country and our economy.
13 "Constructive" being the key word.

14 As Reverend Jackson well pointed out, there is
15 no shortage of critics. There is no shortages of people
16 capable of outlining the nature, extent, great scope of
17 the problem. We are woefully short, however, on the
18 number of people working equally as hard to come up with
19 the answers to many of those problems. I'm happy to
20 count myself among them.

1 A few weeks ago I had the honor to give a
2 speech about diversity in ownership and diversity in
3 opportunity. And the theme of the speech, not of my own
4 making was from the Underground Railroad to the
5 Information Superhighway. Now I'm going to be honest
6 with you. I thought it was a little bit of a strained
7 title myself. I didn't understand how clear the
8 connection was. But it occurred to me the connection is
9 quite clear, because just as the Underground Railroad and
10 what it represented was about freedom, opportunity and a
11 chance, so is the telecommunication revolution and the
12 opportunity that it presents to our families, to our
13 communities to bring our children on par with all of
14 those in the world through the power and use of
15 technology and communication.

16 It is an opportunity for us as entrepreneurs
17 and business persons to take advantage of the third rate
18 economic revolution in the history of America. This
19 effort is urgent. Because in the deregulated world that
20 telecommunication now thrives, the current is swift. It
21 is unforgiving. It is not patient of the error and it is

1 not patient of sloppy ill-conceived work. The time is
2 urgent to be working on these issues.

3 There are many, many, many risks associated
4 with deregulation competition. Risks in policies that we
5 adopt may sometime lead to anti-competitive effects or
6 may harm consumers in other ways. Risks at the
7 communication companies that we work for may be acquired,
8 down-sized, driven out of business. And risks, that as
9 individuals we will not vie successfully for the many
10 choice jobs that the competition should create. But I
11 think as the railroad riders of old knew, the potential
12 awards of freedom far outweigh the risks and therefore we
13 should not let our fears keep us from this journey.

14 We must use their example, their spirit that
15 holds many lessons for those trying to navigate this
16 Information Superhighway. But how is that to be done?
17 Again, it is easy to be one of the people that describe
18 the problem. The world has changed dramatically. The
19 solutions that are going to work today are not
20 necessarily the solutions that we come to realize on in
21 the past. A competitive world is a dramatically

1 different one than a regulatory world. A world that is
2 not premised on the benevolence of regulators, but is
3 premised on the spirit, gut and acumen of entrepreneurs.
4 We are going to have to learn to play the rules of that
5 game and play that game effectively.

6 We're also going to have to do it in an era in
7 which the courts have presented us with a judicial
8 landscape that is much more treacherous to navigate than
9 those you have enjoyed in the past. I will, however, be
10 one of those that would take Sandra Day O'Connell at her
11 word. These new standards need not be a death knell for
12 opportunity. But our defenses, our rationales for these
13 policies are going to require much more rigorous, hard
14 headed and serious work than they may have in the past.

15 My worry, however, that in Washington we are
16 in a state of paralysis. There are many more people
17 sitting around town wringing their hands, wishing these
18 things would never come, sitting around and hoping that
19 the Supreme Court will somehow change for us in less than
20 a few years. That's wishful thinking.

1 My view is that we have to take an opportunity
2 to take these instructions that we have been given and to
3 craft new innovative and creative policies to test those
4 propositions. And if the courts tell me that the
5 Constitution stands as a complete ban for opportunity,
6 then I'll make a reassessment about what kind of America
7 I live in. But for the moment, we have no place to go.
8 We must first try and ask. If we need a process study,
9 get the damn process study. If we need any other hard
10 work, late night, long hours, let's do that too.

11 (APPLAUSE)

12 MR. POWELL: Let's not, as Reverend Jackson
13 suggested, simply reiterate for the millionth time the
14 problems. I believe that what you need is a new vehicle
15 to navigate this Superhighway. The courts aside, with
16 the advent of competitive free market, we cannot employ
17 the same tools we once used to advance the interest of
18 our groups, to give us a fair opportunity to compete and
19 ensure that voices are heard.

20 I am personally working hard to try to find a
21 model that will have some availability in the political

1 landscape. I would like to take this opportunity to
2 share with you the five principles that are guiding my
3 effort and my search and commend them to you as perhaps a
4 starting point for some of your own efforts.

5 First and foremost, I think we should be
6 trying to the greatest extent possible to adopt race and
7 gender-neutral policies. Whenever possible, we should
8 pursue policies that level the playing field for all
9 participants. Minorities and women want a fair chance,
10 not a handout, and policies that remove barriers and
11 facilitate entry will give minority women, entrepreneurs
12 and small businesses a chance to enjoy the fruits of the
13 telecommunication's revolution.

14 Policies that are not race or gender-based
15 will also have the virtue of avoiding the strict
16 scrutinizing eye of the courts.

17 Secondly, we should be working in partnership
18 to encourage private sector initiatives. The market is
19 inherent in the domain of private actors and not public
20 officials. Often the most creative and beneficial
21 approaches to advancing the interests of minorities and

1 women come from the private sector and not government.
2 It is simply good business to be a good citizen. And
3 what government can do however is to work to form those
4 partnerships, find and highlight initiatives and
5 encourage the industries that we regulate to follow the
6 examples that we've set for ourselves.

7 Players in the private sector, rather than us
8 in government, are likely to know the real keys to
9 success in the competitive industry. And again because
10 of the absence of the prominent presence of a state
11 actor, these initiatives have the benefit of again
12 avoiding strict judicial scrutiny.

13 Third, it would require some courage, some
14 courage to jettison many of the self-evident rationales
15 of the past. The courts are no longer going to accept
16 glib assertions that for example a female broadcast owner
17 is necessarily going to produce female friendly program.
18 That sort of rationale is rejected and I feel it would be
19 rejected equally in the context of a race policy.

20 Our newer policies will require much more
21 rigorous defenses to be sustained. It is time to think

1 hard about what we are truly trying to achieve and what
2 we can achieve in the context of government policy.

3 Fourth, it is time to become economists and
4 pursue economic base initiatives wherever possible.

5 Let's recognize, whether we like it or not, markets are
6 primarily the domain of economics rather than social
7 policy. But let me be clear, that is not to suggest that
8 in a market driven economy, you cannot pursue social
9 good. It does, however, mean that you must do so in a
10 manner consistent with bedrock economic principles or we
11 will again be going against traffic and helping no one.

12 I believe strongly that policies that assist
13 or promote minorities and women can be and should be very
14 good for business. We must pursue policies that will
15 illustrate and highlight that fact.

16 Finally, we should be looking for what I would
17 just call the "win win policies". We can craft policies
18 that help minorities and women and they need not be as
19 "zero sum game". A great deal of the anxiety in our
20 society is our race-based policies comes from a
21 perception among the majority that policies designed to

1 help minorities necessarily will harm them. This is
2 simply nonsense. There is undoubtedly a number of ways
3 to promote the interests of all Americans. It does take
4 some creativity and some hard work.

5 I personally believe the banned tax
6 certificate policy was such a policy. It fostered
7 economic opportunities for minorities, at the same time
8 provided intangible benefit for the majority. I am
9 personally looking for ways to get it back.

10 (APPLAUSE)

11 MR. POWELL: Ladies and gentlemen, the policy
12 offers a win for both minority and majority interest.
13 There is a greater commitment to that policy and
14 consequently a higher chance it will actually succeed.
15 These principles are broad, but I do believe they offer
16 some guiding light for our journey.

17 Let me just conclude by saying that these
18 issues are critical to all of us. I'm a Republican
19 member of the Commission, but this is not a Republican
20 issue. This isn't a Democratic issue. This is about
21 inclusion in America for all Americans. I think the

1 sooner we treat it that way, give it the effort it
2 deserves, we are likely to get results that benefit
3 ourselves.

4 It is my pleasure to be here and it is a
5 pleasure to be joining you in a partnership and find ways
6 to make things better for all of us.

7 Thank you very much.

8 CONGRESSMAN RUSH: We're going to have some
9 questions and answers. Commissioner Powell has got just
10 a few moments to spend with us, a few remaining moments.
11 If you have questions that you would like to ask, please
12 line up at the microphones. Don't make statements. Just
13 ask the question and be as succinct as possible, please,
14 because we want to get to as many questions as possible
15 before he has to leave out of here. So where is the
16 mike.

17 Somebody wants to ask a question. Anybody
18 have questions?

19 MR. JORDAN: One of the topics that we're
20 discussing today -- My name is Frank Jordan. I'm from
21 San Diego, California -- is ownership in radio and also

1 in the telecommunication business. Presently the playing
2 field is not even, never has been even, in acquiring a
3 broadcast license. The process of auction and the bid
4 process puts the small business out of the market. We
5 have developed some research that we shared this morning
6 with the commissioner, that we have found a way to add
7 six to ten frequencies to an area, the use of broader
8 technology.

9 Would you be interested in seeing the results
10 of the new search that we have done? What we're trying
11 to say is that long after 1932, 1934, when the FCC was
12 created, the FCC is still using some of those policies,
13 such as the distance between the FM frequencies of 800
14 kilohertz. Modern technology tells us that we can add
15 frequencies with 400 kilohertz separation on the -- and
16 additionally within the next five years you can go 100
17 kilohertz. Would you be interested in seeing the
18 research that we're doing so that we can create new
19 avenues? Because right now with the major companies
20 buying up all the radio stations, ten companies own or

1 control 85 percent of the best broadcast frequencies in
2 America.

3 Would you be interested in supporting this
4 idea of creating more opportunities for minorities and
5 women?

6 MR. POWELL: The simple answer is yes. I
7 think the one point I would make that you touched on is
8 that advanced technology, the opportunity to generate,
9 and we should become technologists as much as we should
10 become economists, because to understand the potentiality
11 and the problems of traditional technology, to understand
12 the zeros and ones in the right order can do for policy
13 is going to be critical. Because I guarantee you that
14 the larger interests that you're referring to are
15 dedicated to an enormous amount of opportunities that
16 technology presents, and that certainly I would urge you
17 to do the same thing.

18 MS. LEVER: You talked about the initiative of
19 the private sector, because of mergers and acquisitions
20 of today's divestitures of some stations in terms of the
21 antitrust guidelines. As a part of the negotiated

1 settlement in some of these cases, do you think in terms
2 of your good citizen private sector initiative, that
3 there may be encouragement on the part of the Commission
4 to sell some of these divested stations to minorities in
5 order to get the competitive balance back in place?

6 MR. POWELL: I think the answer is basically
7 the same as the last one. I'm always interested in
8 looking at ideas. I think one of the first things that
9 has to happen, and this isn't meant to brush the question
10 aside, there has to be a vigorous evaluation exactly of
11 what is the diversity interest of the government before
12 you can begin to enact policies designed to further that
13 interest.

14 I would submit that at the moment it is a
15 relatively muddled picture. It is relatively unclear.
16 At least I'm being self-critical because it is unclear
17 exactly what the well-articulated diversity interest of
18 the federal government is. But that said, when we tackle
19 that, which we must, and there are a number of
20 proceedings that are giving us the opportunity to do so,
21 we should look at everything like that to see this --

1 MS. LEVER: When you say the private sector
2 should have initiatives and act as good citizens, if you
3 could clarify that for me, what are you talking about
4 when you say good citizens and the private sector
5 initiatives.

6 MR. POWELL: Good citizenship means to assume
7 a personal obligation to be able to generate and create
8 initiatives that would allow and increase opportunities,
9 using various other opportunities. There are only so
10 many ways that the FCC can help with that problem. There
11 are millions of ways that the private sector can. I
12 think that I have had a lot of response from the private
13 sector coming into the office with programs I would never
14 have thought of, because I don't understand how the
15 business works the way they do. Whether it is creating
16 innovative programs or reviewing local marketing
17 agreements, whether it is certain terms and conditions
18 that allow capital to be accessed easier, whether it is
19 particular lending funds that are dedicated to minority
20 interests, these are things that I have heard. My

1 instincts are there are many other such ideas resting out
2 there dormant in the private sector.

3 MS. LEVER: Thank you very much.

4 UNIDENTIFIED MALE: Good afternoon. Thank you
5 for being with us today, Commissioner Powell. My
6 question is, in your presentation, you seem to again
7 focus a great deal on opportunities, the new
8 opportunities that have prevailed themselves in terms of
9 content development bands with delivery, from the
10 standpoint of delivering of the message to the mass
11 audience. In your view, it seems to be on the Internet.
12 Is that where you see the opportunity area?

13 MR. POWELL: Absolutely.

14 UNIDENTIFIED MALE: And in your view of the
15 Internet within the next two to three years, do you see
16 it directly impacting the mass media industry from the
17 standpoint of its contents and capabilities of the
18 delivering and communicating with the community?

19 MR. POWELL: Let me say what I think is so
20 powerful. It not what he can do today. It is what the
21 genius of the network represents in terms of opportunity